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HOUSE BILL 493

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO WORKERS' COMPENSATION; DISALLOWING WORKERS'
COMPENSATION BENEFITS TO INCARCERATED INJURED WORKERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-25.1 NMSA 1978 (being Laws 1990
(2nd S.S.), Chapter 2, Section 10, as amended) is amended to
read:

"52-1-25.1. TEMPORARY TOTAL DISABILITY--RETURN TO WORK.--

A. As used in the Workers' Compensation Act,
"temporary total disability" means the inability of a worker,
by reason of accidental injury arising out of and in the course
of the worker's employment, to perform the duties of that
employment prior to the date of the worker's maximum medical
improvement.

B. If, prior to the date of maximum medical

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1 improvement, an injured worker's health care provider releases
2 the worker to return to work, the worker is not entitled to
3 temporary total disability benefits if:

4 (1) the employer offers work at the worker's
5 pre-injury wage; or

6 (2) the worker accepts employment with another
7 employer at the worker's pre-injury wage.

8 C. If, prior to the date of maximum medical
9 improvement, an injured worker is in a correctional facility or
10 detention center as a result of a criminal conviction, the
11 injured worker shall not be entitled to workers' compensation
12 benefits for the period of incarceration.

13 [~~C.~~] D. If, prior to the date of maximum medical
14 improvement, an injured worker's health care provider releases
15 the worker to return to work and the employer offers work at
16 less than the worker's pre-injury wage, the worker is disabled
17 and shall receive temporary total disability compensation
18 benefits equal to two-thirds of the difference between the
19 worker's pre-injury wage and the worker's post-injury wage.

20 [~~D.~~] E. If the worker returns to work pursuant to
21 the provisions of Subsection B of this section, the employer
22 shall continue to provide reasonable and necessary medical care
23 pursuant to Section 52-1-49 NMSA 1978."